

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN BILL THOMAS**, on January 20, 2003 at 3:05 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Bill Thomas, Chairman (R)
Rep. Arlene Becker, Vice Chairman (D)
Rep. Mark Noennig, Vice Chairman (R)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Ray Hawk (R)
Rep. Daniel S. Hurwitz (R)
Rep. Larry Jent (D)
Rep. Penny Morgan (R)
Rep. Holly Raser (D)
Rep. Don Roberts (R)
Rep. Ron Stoker (R)
Rep. Jonathan Windy Boy (D)

Members Excused: None.

Members Absent: None.

Staff Present: Susan Fox, Legislative Branch
Pamela Schindler, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp for these minutes appears at the end of the content it refers to.

Committee Business Summary:

Hearing & Date Posted: None
Executive Action: HB 51-Do Pass As Amended, HB 279-Do
Pass As Amended, HJR 3-Do Pass
HB 121-Be Postponed to 1/22/03

EXECUTIVE ACTION ON HB 279

Motion: REP. BECKER moved that HB 279 DO PASS.

Motion: REP. NOENNIG moved that HB 279 BE AMENDED.

EXHIBIT (huh11a01)

Discussion:

REP. NOENNIG proposed an amendment and proceeded to explain it. On line 20, 21 page 1 the amendment would strike: "are payable" and change to "must be billed to." Also on line 22, page 1 strike: "a" and insert "the respondent's."

Vote: Motion that HB 279 BE AMENDED carried unanimously.
(voice vote)

Motion/Vote: REP. FACEY moved that HB 279 DO PASS AS AMENDED.
Motion carried unanimously. (voice vote)

{Tape: 1; Side: A; Approx. Time Counter: 0 - 7.2}

EXECUTIVE ACTION ON HB 121

Motion/Vote: REP. FACEY moved that HB 121 BE INDEFINITELY POSTPONED.

Discussion:

REP. FACEY expressed concerns over this bill stating, "I just don't understand it yet, and would like to wait until I do to hear it." REP. NOENNIG informed REP. FACEY that technically a hearing is not able to be postponed without a date specifically set. REP. FACEY amended his own motion to: HB 121 BE POSTPONED UNTIL WEDNESDAY, JANUARY 22, 2003. Motion carried unanimously.
(voice vote)

{Tape: 1; Side: A; Approx. Time Counter: 7.2 - 10}

EXECUTIVE ACTION ON HJR 3

Motion: REP. STOKER moved that HJR 3 DO PASS.

Discussion:

REP. JENT explained to the Committee that this is a resolution requesting an interim committee study in child abuse and neglect proceedings to indicate if certain people need legal representation, at what stage and why. He stated there is representation for the child in the form of a Guardian Ad Litem, so also there needs to be representation for the parents. There is concern about the power the statutes place over this Department to deal with these families. "Inconsistencies exist presently in the District courts and in what they are doing," stated REP. JENT. That is why this interim study is needed for both legal and factual questions to be answered.

REP. NOENNIG concurred with REP. JENT'S observations. "These are very difficult and contentious issues," REP. NOENNIG stated. He proceeded to say that the whole family needs the attention this would bring. REP. FACEY thinks this is a good resolution also. However, he pointed out that many counties do appoint legal counsel immediately. Flathead County does not and "drags their feet" before appointing legal counsel. He stated that "County Commissioners there need to do their jobs."

Vote: Motion that HJR 3 DO PASS carried unanimously. (voice vote)

{Tape: 1; Side: A; Approx. Time Counter: 10 - 15.4}

REP. ROBERTS inquired of REP. JENT if there was a way to prioritize the resolution just passed. REP. JENT explained the procedure regarding the balloting, ranking, etc. set forth by the entire House. REP. NOENNIG further explained the process.

{Tape: 1; Side: A; Approx. Time Counter: 15.4 - 17}

EXECUTIVE ACTION ON HB 51

Motion: REP. GALLUS moved that HB 51 DO PASS.

Motion: REP. BECKER moved that HB 51 BE AMENDED.

EXHIBIT (huh11a02)

Discussion:

REP. BECKER explained to the Committee that this is a bill that changes the name of a personal care facility to "assisted living facility." It also adds to the categories of care someone can receive to 3 categories: A, B and now C.

Susan Fox, Legislative Staffer explained the amendments further: Page 10, line 3-following: "without" insert: "regard for," Page 10 line 4-following "(c)" insert: "except as noted in (4)(b)," Page 10, line 15-Strike: "physician" insert "practitioner."

Vote: Motion that **HB 51 BE AMENDED** carried unanimously.
(voice vote) (amendment 1)

Motion: **REP. NOENNIG** moved that **HB 51 BE AMENDED AGAIN WITH THIS AMENDMENT SEGREGATED INTO 3 PARTS. THIS AMENDMENT WILL DEAL WITH PARTS 1 AND 2.**

EXHIBIT(huh11a03)

Discussion:

Susan Fox, Legislative Staffer, explained these amendments. Due to the extensive amendments listed they will be referred to Page 2 line 14, Page 8 line 4, and Page 10 line 2. **REP. NOENNIG** asked **Mary Dalton** from the **Department of Public Health and Human Services** to further explain these amendments.

Ms. Dalton explained to the Committee the term "cognitive impairment" in a Class or Category C facility specifically related to the amendment for Page 10 line 2. **REP. NOENNIG** asked for a more definitive explanation for "may have" or "has" cognitive impairment. **REP. BECKER** pointed out that there may also be a problem with "may have" regarding licensing of a facility. **REP. DALTON** asked Ms. Dalton if the thinking was more on a "continuum" basis. **Ms. Dalton** responded that there were concerns about A & C facilities overlapping; that the laws were made to make that clear.

Vote: carried unanimously as to part 1 and 2 of Amendment 2.
(amendment 2 and 3) (voice vote)

{Tape: 1; Side: A; Approx. Time Counter: 17 - 30}

Motion: **REP. NOENNIG** moved that **HB 51 BE AMENDED FOR PART 3 OF AMENDMENT 2.**

Discussion:

Ms. Fox, Legislative Staffer, explained the difference between "the condition" and how it is met versus the discretionary aspects. **REP. NOENNIG** stated that he will resist part 3 of amendment 2. **REP. STOKER** asked **Ms. Dalton** a question regarding having cognitively impaired persons in an "A" facility. **Ms. Dalton** responded by saying that it is in degrees of severity. Residents in an "A" facility may forget to take their medications but will remember to eat, whereas residents in a "C" facility cannot make those basic care decisions. **REP. GALLUS** asked **Ms. Fox** a question regarding the diagnosis procedure as to "rule out" procedure. **Ms. Fox** responded that she didn't think there was that kind of a procedure. **Ms. Dalton** explained to the Committee that a "cognitive impairment" is an impairment in thinking. The various levels of A, B and C are a way to try and differentiate the degrees of impairment. **REP. RASER** asked **Ms. Dalton** several questions as to the intent of the facility and whether a facility should be licensed for more than one level. **Ms. Dalton** explained the ratio of beds required by the facility and the ratio of beds required for each of the different levels.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 6.6}

REP. NOENNIG further asked **Ms. Dalton** about the language in question as to "severe cognitive impairment." **Ms. Dalton** replied that was the intent of the amendment. **REP. NOENNIG** stated he thought the present language be changed from "may have" to "has."

Substitute Motion: **REP. NOENNIG** made a substitute motion **HB 51 STRIKING "MAY HAVE" AND INSERTING "HAS."**

Discussion:

REP. WINDY BOY inquired whether the amendments should be made in writing. **CHAIRMAN THOMAS** responded by saying that they could be of a conceptual nature. **Ms. Fox** responded that if she had known about these amendments earlier she would have had them done before the hearing. Further conversation ensued between **REP. NOENNIG** and **CHAIRMAN THOMAS** to explain to the Committee about written amendments, substitute amendments etc.

Vote: Substitute motion that **HB 51 BE AMENDED** carried unanimously. (amendment 4) (voice vote)

Motion: **REP. NOENNIG** moved that **HB 51 DO PASS AS AMENDED.**

Motion: REP. GALLUS moved that HB 51 BE AMENDED.

EXHIBIT (huh11a04)

Discussion:

Ms. Fox explained the last amendment to the Committee with respect to the language for the Code Commissioner changing the wording from "personal care facility" to "assisted living facility."

{Tape: 1; Side: B; Approx. Time Counter: 6.6 - 12.6}

Vote: Motion that HB 51 BE AMENDED carried unanimously by voice vote.

Motion/Vote: REP. GALLUS moved that HB 51 DO PASS AS AMENDED. Motion carried unanimously (voice vote).

REP. JENT asked the Committee that the bills not acted upon are HB 56, HB 191 and if he could make a motion regarding HB 191.

REP. JENT decided to wait until executive action was done on HB 191.

{Tape: 1; Side: B; Approx. Time Counter: 12.6 - 15.6}

ADJOURNMENT

Adjournment: 3:45 P.M.

REP. BILL THOMAS, Chairman

PAMELA SCHINDLER, Secretary

BT/PS

EXHIBIT (huh11aad)